



# HIGH COURT BULLETIN

Produced by the Legal Research Officer,  
High Court of Australia Library  
[2017] HCAB 3 (26 April 2017)

A record of recent High Court of Australia cases: decided, reserved for judgment, awaiting hearing in the Court's original jurisdiction, granted special leave to appeal, refused special leave to appeal and not proceeding or vacated

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## 1: SUMMARY OF NEW ENTRIES

### 2: Cases Handed Down

| Case   | Title                     |
|--|---------------------------|
| <a href="#"><i>Ecosse Property Holdings Pty Ltd v Gee Dee Nominees Pty Ltd</i></a> | Contract Law              |
| <a href="#"><i>Re Day (No 2)</i></a>   | Court of Disputed Returns |
| <a href="#"><i>Kendirjian v Lepore &amp; Anor</i></a>                              | Negligence                |

### 3: Cases Reserved

| Case  | Title              |
|---|--------------------|
| <a href="#"><i>Knight v State of Victoria &amp; Anor</i></a>  | Constitutional Law |
| <a href="#"><i>The Queen v Dickman</i></a>  | Criminal Law       |
| <a href="#"><i>IL v The Queen</i></a>   | Criminal Law       |
| <a href="#"><i>SZTAL v Minister for Immigration and Border Protection &amp; Anor; SZTGM v Minister for Immigration and Border Protection &amp; Anor</i></a> | Migration          |

|  |           |
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| <a href="#"><i>Graham v Minister for Immigration and Border Protection; Te Puia v Minister for Immigration and Border Protection</i></a> | Migration |
| <a href="#"><i>Forrest &amp; Forrest Pty Ltd v Wilson &amp; Ors</i></a>  | Mining    |
| <a href="#"><i>Commissioner of Taxation v Jayasinghe</i></a>   | Taxation  |

#### 4: Original Jurisdiction

| <b>Case</b>  | <b>Title</b> |
|--|--------------|
| <a href="#"><i>Falzon v Minister for Immigration and Border Protection</i></a> | Migration    |

#### 5: Special Leave Granted

| <b>Case</b>   | <b>Title</b> |
|---|--------------|
| <a href="#"><i>Craig v The Queen</i></a>  | Criminal Law |
| <a href="#"><i>Hamra v The Queen</i></a>  | Criminal Law |
| <a href="#"><i>Commissioner of the Australian Federal Police v Hart &amp; Ors; Commonwealth of Australia v Yak 3 Investments Pty Ltd as Trustee for Yak 3 Discretionary Trust &amp; Ors; Commonwealth of Australia &amp; Anor v Flying Fighters Pty Ltd &amp; Ors</i></a> | Criminal Law |
| <a href="#"><i>Koani v The Queen</i></a>  | Criminal Law |

#### 6: Cases Not Proceeding or Vacated

| <b>Case</b>   | <b>Title</b>   |
|---|----------------|
| <a href="#"><i>Esso Australia Pty Ltd v Australian Workers' Union; Australian Workers' Union v Esso Australia Pty Ltd</i></a> | Industrial Law |

## 2: CASES HANDED DOWN

The following cases were handed down by the High Court of Australia during the April 2017 sittings.

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### Contract Law

*Ecosse Property Holdings Pty Ltd v Gee Dee Nominees Pty Ltd*  
**M143/2016:** [\[2017\] HCA 12](#)

**Judgment delivered:** 29 March 2017

**Coram:** Kiefel, Bell, Gageler, Nettle and Gordon JJ

**Catchwords:**

Contract – Construction and interpretation of contracts – Long-term lease – Standard form contract – Where parties entered lease because unable to effect sale and purchase of land due to planning restrictions – Where standard form lease amended by parties – Where clause pertaining to payment of rates, taxes, assessments and other outgoings ambiguous – Whether parties intended lease to resemble sale and purchase of land – Whether lessee liable to pay all rates, taxes, assessments and other outgoings or only liable to pay those payable in lessee's capacity as tenant.

Words and phrases – "commercial purpose and objects", "commercial sense", "deletions from standard form contract", "in respect of the said premises", "payable by the tenant", "reasonable businessperson".

**Appealed from VSC (CA):** [\[2016\] VSCA 23](#)

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### Court of Disputed Returns

*Re Day (No 2)*  
**C14/2016:** [\[2017\] HCA 14](#)

Questions referred to the Court of Disputed Returns pursuant to section 376 of the *Commonwealth Electoral Act 1918* (Cth).

**Judgment delivered:** 5 April 2017

**Coram:** Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

**Catchwords:**

Constitutional law – Parliamentary elections (Cth) – Senate – Reference to Court of Disputed Returns – Where person elected and re-elected as senator – Where person stood to gain financially from Commonwealth paying rent under lease of person's electorate office – Where person's bank account nominated by lessor as bank account for payment of rent by Commonwealth – Where payment of rent reduced person's contingent liability as guarantor under loan facilities – Where person had prospect of receiving distribution of rent proceeds as beneficiary of discretionary trust – Whether person had indirect pecuniary interest in lease agreement with Commonwealth – Whether person incapable of being chosen or of sitting as senator under s 44(v) of Constitution – Whether vacancy should be filled by special count of ballot papers – Whether special count would distort voters' real intentions.

Words and phrases – "distortion of the voters' real intentions", "expectation of pecuniary benefit", "incapable of being chosen", "indirect pecuniary interest", "special count", "true legal intent of the voters".

Constitution – s 44(v).

*Commonwealth Electoral Act* 1918 (Cth) – ss 168(1), 272(2), 273(27), 360, 376.

*Parliamentary Entitlements Act* 1990 (Cth) – s 4(1), Item 7 of Pt 1 of Sched 1.

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## Negligence

*Kendirjian v Lepore & Anor*

**S170/2016:** [\[2017\] HCA 13](#)

**Judgment delivered:** 29 March 2017

**Coram:** Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

**Catchwords:**

Legal practitioners – Negligence – Advocates' immunity from suit – Where settlement offer made and rejected on first day of trial – Where rejection of settlement offer followed by judicial decision – Where damages awarded lower than settlement offer – Where solicitor and barrister alleged to have given negligent advice in relation to settlement offer – Whether advice affected conduct of

case in court by bearing upon court's determination of case – Whether advocate immune from suit.

High Court – Stare decisis – Whether *Attwells v Jackson Lalic Lawyers Pty Ltd* (2016) 90 ALJR 572; 331 ALR 1; [2016] HCA 16 should be reopened.

Words and phrases – "advocates' immunity", "affecting the conduct of the case", "finality", "functional connection", "intimately connected", "judicial determination", "possibility of challenge to findings".

**Appealed from NSWSC (CA):** [\[2015\] NSWCA 132](#)

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## 3: CASES RESERVED

The following cases have been reserved or part heard by the High Court of Australia.

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### Competition Law

*Air New Zealand Ltd v Australian Competition and Consumer Commission; PT Garuda Indonesia Ltd v Australian Competition and Consumer Commission*

[S245/2016](#), [S248/2016](#): [\[2017\] HCATrans 44](#), [\[2017\] HCATrans 46](#)

**Date heard:** 2 and 3 March 2017

**Coram:** Kiefel CJ, Bell, Keane, Nettle and Gordon JJ

**Catchwords:**

Competition – *Trade Practices Act* 1974 (Cth) – Whether “market” defined by questions of substitutability or other considerations – Whether markets for air cargo services from airports in Hong Kong, Singapore and Indonesia to Australia were markets “in Australia” within meaning of s 4E – Whether ss 12 and 13 *Air Navigation Act* 1920 (Cth) inconsistent with ss 45 and 45A *Trade Practices Act* 1974 (Cth) such that latter did not apply to contravening conduct – Whether conduct compelled by law/administrative practice of foreign state – Whether person acting in accordance with such law/practice makes “contract or arrangement” or arrives at “understanding” for purpose of s 45(2).

**Appealed from FCA (FC):** [\[2016\] FCAFC 42](#); (2016) 330 ALR 230

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### Constitutional Law

*Knight v State of Victoria & Anor*

[M251/2015](#): [\[2017\] HCATrans 61](#)

**Coram:** Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

**Date heard:** 28 March 2017

**Catchwords:**

Constitutional law – Chapter III of the Constitution – Where plaintiff pleaded guilty to seven counts of murder and 46 counts of attempted murder in Supreme Court of Victoria – Where plaintiff was sentenced to life imprisonment with minimum term of 27 years – Where minimum term has expired – Where prior to expiry Victorian Parliament passed *Corrections Amendment (Parole) Act 2014* (Vic) which inserted s 74AA into *Corrections Act 1986* (Vic) – Where s 74AA requires Adult Parole Board to not release plaintiff unless in imminent danger of dying or seriously incapacitated and as result no longer has physical ability to harm any person – Where judicial officers, including Judges of Supreme Court of Victoria, may be appointed as members of Adult Parole Board – Whether s 74AA impermissibly interferes with exercise of judicial power by Supreme Court of Victoria – Whether s 74AA authorises State judicial officers to participate in decision-making process that undermines judicial independence and renders courts on which they sit unsuitable to be repositories of federal judicial power.

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*Rizeq v The State of Western Australia*

**P55/2016:** [\[2017\] HCATrans 11](#); [\[2017\] HCATrans12](#)

**Date heard:** 1 and 2 February 2017

**Coram:** Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

**Catchwords:**

Constitutional law – s 80 of the Constitution – Where appellant was a resident of New South Wales – Where appellant was found guilty of possession of drugs with of intent to sell or supply under *Misuse of Drugs Act 1981* (WA) s 6(1)(a) – Where appellant was convicted by majority pursuant to *Criminal Procedure Act 2004* (WA) s 114(2) – Whether *Misuse of Drugs Act 1981* (WA) s 6(1)(a) applied directly or was “picked up” by *Judiciary Act 1903* (Cth) s 79(1) – Whether *Misuse of Drugs Act 1981* (WA) s 6(1)(a) was an offence against a “law of the Commonwealth” where the District Court was exercising federal diversity jurisdiction – Whether *Criminal Procedure Act 2004* (WA) s 114(2) did not apply to the appellant’s trial because s 80 of the Constitution required the appellant to be convicted by unanimous verdict.

**Appealed from WASC (CA):** [\[2015\] WASCA 165](#)

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# Criminal Law

*The Queen v Dickman*

**M162/2016:** [\[2017\] HCATrans 71](#)

**Date heard:** 6 April 2017

**Coram:** Kiefel CJ, Bell, Keane, Nettle and Edelman JJ

**Catchwords:**

Criminal law – Evidence – Identification evidence – *Evidence Act* 2008 (Vic) s 137 – Where complainant made identification based on photoboard containing no photograph of accused – Where complainant later identified accused based on different photoboard – Whether majority of Court of Appeal erred in holding trial judge erred in failing to exclude identification evidence – Whether majority of Court of Appeal erred in considering issues of reliability in assessing whether probative value of identification evidence outweighed by risk of unfair prejudice for purposes of s 137.

**Appealed from VSC (CA):** [\[2015\] VSCA 311](#)

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*IL v The Queen*

**S270/2016:** [\[2017\] HCATrans 65](#)

**Date heard:** 4 April 2017

**Coram:** Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

**Catchwords:**

Criminal law – Constructive murder – Joint criminal enterprise – *Crimes Act* 1900 (NSW) s 18 – Where deceased's death caused by ignition of ring burner in inadequately ventilated room – Where evidence insufficient to establish that appellant ignited burner – Whether ignition of ring burner within scope of joint criminal enterprise to manufacture methylamphetamine – Whether subjective foresight of risk of death required for charge of constructive murder – Whether element of "malice" in s 18(2)(a) satisfied by proof of intention to commit foundational offence – Whether "malice" established by recklessness.

**Appealed from NSWSC (CCA):** [\[2016\] NSWCCA 51](#)

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*Aubrey (MA) v The Queen*  
**S274/2016:** [\[2017\] HCATrans 13](#)

**Date heard:** 3 February 2017

**Coram:** Kiefel CJ, Bell, Keane, Nettle and Edelman JJ

**Catchwords:**

Criminal law – Statutory construction – *Crimes Act 1900* (NSW) s 35 – Where appellant alleged to have transmitted Human Immunodeficiency Virus (HIV) to complainant – Where appellant had tested positive for HIV but told complainant that he did not have HIV – Where appellant convicted of maliciously inflicting grievous bodily harm under s 35(1)(b) *Crimes Act 1900* (NSW) – Whether recklessness under s 5 *Crimes Act 1900* (NSW) requires foresight of the probability of harm rather than mere advertence to a possibility – Whether offence under s 35(1)(b) requires direct force applied violently to body of victim.

**Appealed from NSWSC (CCA):** [\[2015\] NSWCCA 323](#)

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*Hughes v The Queen*  
**S226/2016:** [\[2017\] HCATrans 16](#)

**Date heard:** 8 February 2017

**Coram:** Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

**Catchwords:**

Criminal law – Tendency evidence – Where appellant found guilty on 10 of 11 charges of having sexual intercourse with, and committing acts of indecency on, girls under the age of sixteen – Where tendency evidence admitted to prove that the appellant had a tendency to have a sexual interest in, and engage in sexual conduct with, female children under sixteen – *Evidence Act 1995* (NSW) s 97 – Whether tendency evidence had “significant probative value” – Whether an “underlying unity” or “pattern of conduct” required to establish significant probative value – Whether evidence of tendency was sufficiently specific to reach threshold of significant probative value – Whether Court of Criminal Appeal erred in rejecting approach taken to tendency evidence in *Velkoski v R* [2014] VSCA 121.

**Appealed from NSWSC (CCA):** [\[2015\] NSWCCA 330](#)

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*Smith v The Queen; The Queen v Afford*  
**[S249/2016](#), [M144/2016](#): [\[2017\] HCATrans 40](#)**

**Date heard:** 28 February 2017

**Coram:** Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

**Catchwords:**

Criminal law – *Criminal Code* (Cth) s 307.1 – Intention – Meaning of “means to engage in that conduct” – Factual inferential reasoning – Application of *Kural v The Queen* (1987) 162 CLR 502 – Whether “awareness of the likelihood” can be used to establish intention under Ch 2 of *Criminal Code* (Cth).

**Appealed from NSWSC (CCA):** [\[2016\] NSWCCA 93](#); (2016) 309 FLR 258; **Appealed from VSC (CA):** [\[2016\] VSCA 56](#); (2016) 308 FLR 1

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*Pickering v The Queen*  
**[B68/2016](#): [\[2017\] HCATrans 50](#)**

**Date heard:** 9 March 2017

**Coram:** Kiefel CJ, Gageler, Nettle, Gordon and Edelman JJ

**Catchwords:**

Criminal law – *Criminal Code* (Qld) – Where jury acquitted appellant of murder and found appellant guilty of manslaughter – Where appellant killed deceased whilst allegedly trying to avoid him – Whether application of s 31(1)(c) *Criminal Code* (Qld) excluded by s 31(2) – Meaning of “would constitute”.

**Appealed from QSC (CA):** [\[2016\] QCA 124](#)

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## Migration

*SZTAL v Minister for Immigration and Border Protection & Anor*;  
*SZTGM v Minister for Immigration and Border Protection & Anor*  
**[S272/2016](#); [S273/2016](#): [\[2017\] HCATrans 68](#)**

**Date heard:** 5 April 2017

**Coram:** Kiefel CJ, Gageler, Nettle, Gordon and Edelman JJ

**Catchwords:**

Migration – Statutory interpretation – *Migration Act* 1958 (Cth) – s 36(2)(aa), complementary protection criteria – Where appellants are nationals of Sri Lanka – Where appellants left Sri Lanka illegally – Where Tribunal accepted that it was likely that appellants would be jailed upon return to Sri Lanka – Whether Full Court of the Federal Court erred in holding that requirement of intentional infliction of “cruel and inhuman treatment or punishment” or “degrading treatment or punishment” requires proof of subjective intention.

**Appealed from FCA (FC):** [\[2016\] FCAFC 69](#); (2016) 243 FCR 556

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*Graham v Minister for Immigration and Border Protection; Te Puia v Minister for Immigration and Border Protection*

**M97/2016; P58/2016:** [\[2017\] HCATrans 63](#)

**Date heard:** 30 March 2017

**Coram:** Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

**Catchwords:**

Constitutional law – Migration – Where plaintiffs are citizens of New Zealand – Where plaintiffs were granted a class TY subclass 444 Special Category (Temporary) visa when they each respectively last entered Australia – Where defendant cancelled plaintiffs’ visas under s 501(3) of the *Migration Act* 1958 (Cth) – Where defendant received information in accordance with s 503A(1) of the *Migration Act* 1958 (Cth) – Where s 503A(2) prevents defendant from disclosing confidential information to the Court – Whether ss 501(3) and 503A(2) invalid as requiring a Federal court to exercise judicial power in a manner inconsistent with the essential character of a court – Whether invalid as limiting ability of affected person to seek relief under s 75(v) of Constitution.

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*Plaintiff M96A/2016 & Anor v Commonwealth of Australia & Anor*

**M96/2016:** [\[2017\] HCATrans 49](#)

**Date heard:** 8 March 2017

**Coram:** Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

**Catchwords:**

Constitutional law – Migration – Where plaintiffs arrived in Australia at Christmas Island as “unauthorised maritime arrivals” – Where plaintiffs detained under s 189(3) *Migration Act* 1958 (Cth) – Where plaintiffs taken to Republic of Nauru under s 198AD(2) – Where plaintiffs subsequently brought to Australia under s 198B for “temporary purpose” of medical treatment – Where plaintiffs are detained in detention centre in Australia – Whether detention under ss 189 or 196 beyond power conferred in Constitution s 51(xix) – Whether detention of plaintiffs incompatible with Ch III of Constitution.

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## Mining

*Forrest & Forrest Pty Ltd v Wilson & Ors*

**P59/2016:** [\[2017\] HCATrans 64](#)

**Date heard:** 31 March 2017

**Coram:** Kiefel CJ, Bell, Gageler, Keane and Nettle JJ

**Catchwords:**

Mining – Statutory Construction – *Mining Act* 1978 (WA) – Where applications for mining leases lodged without mining operations statements or mineralisation reports specified in s 74(1)(ca)(ii) – Where mineralisation reports subsequently lodged – Where Warden recommended Minister grant applications subject to conditions – Whether lodgement of mineralisation report at time of application for mining lease was essential condition that must be satisfied in order to enliven jurisdiction of Director to prepare report under s 74A(1) – Whether lodgement of mineralisation report at time of application for mining lease was essential condition that must be satisfied in order to enliven Warden’s jurisdiction to hear application under s 75(4) and make recommendation under s 75(5).

**Appealed from WASC (CA):** [\[2016\] WASCA 116](#)

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## Procedure

*Talacko v Bennett & Ors*

**M154/2016:** [\[2017\] HCATrans 47](#)

**Coram:** Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

**Date heard:** 7 March 2017

**Catchwords:**

Procedure – Foreign judgments – Where money judgment in Australian court – Where judgment creditors wish to enforce judgment in foreign country – Where two certificates issued under s 15(1) *Foreign Judgments Act* 1991 (Cth) – Where judgment debtor bankrupt when certificates granted – Where judgment amounted to “provable debt” – Whether applications precluded by s 15(2) *Foreign Judgments Act* 1991 (Cth) on basis that s 58(3) *Bankruptcy Act* 1966 (Cth) operated as stay of enforcement of judgment debt – Whether judgment creditor can enforce judgment in foreign country under s 15(1) where it is not competent for creditor to enforce any remedy against debtor by reason of s 58(3).

**Appealed from VSC (CA):** [\[2016\] VSCA 179](#); (2016) 312 FLR 159

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## Taxation

*Commissioner of Taxation v Jayasinghe*

**S275/2016:** [\[2017\] HCATrans 62](#)

**Date heard:** 29 March 2017

**Coram:** Kiefel CJ, Gageler, Keane, Gordon and Edelman JJ

**Catchwords:**

Taxation – *International Organisations (Privileges and Immunities) Act* 1963 (Cth) s 6(1)(d)(i) – Where respondent was civil engineer engaged by United Nations Office of Project Services under “Individual Contractor Agreement” – Whether respondent was a person who “holds an office in an international organisation” under the Act and Regulations made under the Act – Meaning of “holds an office in an international organisation” – Whether common law concept of “office” applies – Whether determined by establishment and designation of office by international organisation.

**Appealed from FCA(FC):** [\[2016\] FCAFC 79](#); (2016) ATC 20-571

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## 4: ORIGINAL JURISDICTION

The following cases are ready for hearing in the original jurisdiction of the High Court of Australia.

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### Constitutional Law

*Brown & Anor v The State of Tasmania*

**H3/2016:** *Special Case*

**Catchwords:**

Constitutional Law – Implied freedom of political communication – *Workplaces (Protection from Protesters) Act 2014 (Tas)* – Where Forestry Tasmania was authorised to undertake forestry operations in the Lapoinya Forest – Where plaintiffs protested against forestry operations in vicinity of the operations – Where plaintiffs were charged on separate occasions for breaching s 8 of the Act – Where charges were dismissed against both plaintiffs – Whether plaintiffs have standing – Whether Act impermissibly burdens the implied freedom of political communication.

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### Constitutional Law

*ResourceCo Material Solutions Pty Ltd & Anor v State of Victoria & Anor*

**M32/2016:** *Demurrer*

**Catchwords:**

Constitutional law – Section 92 – *Environment Protection (Industrial Waste Resource) Regulations 2009 (Vic)* – Where reg 26(3) prohibits interstate transport of prescribed industrial waste for destruction/deposit unless interstate facility has better environmental performance standards – Contract to dispose of contaminated soil in Victoria by transporting to and disposing of in South Australia – Where second plaintiff obtained approval from South Australian Environment Protection Authority (“EPA”) for treatment of soil in South Australia – Where first plaintiff sought approval from EPA Victoria for transport of waste from Victoria to South Australia – Where approval refused because EPA Victoria not satisfied waste would be deposited at facility in South Australia with better environmental performance standards than in Victoria – Whether reg 26 or 26(3) *Environment Protection (Industrial Waste*

*Resource) Regulations 2009 (Vic) contrary to s 92 and therefore invalid – Whether protectionist effect of reg 26(3) can be inferred from discriminatory burden imposed on interstate trade – Whether objects of reg 26(3) must be actual motivating objects of the regulation.*

*Hearing vacated (1 February 2017).*

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## Migration

*Falzon v Minister for Immigration and Border Protection*

**S31/2017:** *Application to Show Cause*

**Catchwords:**

Constitutional law – Migration – Where plaintiff's visa cancelled pursuant to *Migration Act 1958* (Cth) s 501(3A) – Where Minister decided not to revoke cancellation under s 501CA – Whether s 501(3A) is invalid because it purports to confer judicial power of Commonwealth on Minister.

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*Plaintiff S195/2016 v Minister for Immigration and Border Protection & Ors*

**S195/2016:** *Special Case*

**Catchwords:**

Constitutional law – Migration – Where plaintiff is citizen of Iran – Where plaintiff was “unauthorised maritime arrival” – Where plaintiff unwilling to return to Iran – Where plaintiff sent to Papua New Guinea under regional processing arrangements – Where Papua New Guinea Supreme Court handed down *Belden Norman Namah, MP Leader of the Opposition v Hon Rimbak Pato, Minister for Foreign Affairs & Immigrations SCA NO 84 of 2013* (“*Namah Decision*”) – Whether designation of Papua New Guinea as regional processing country beyond power under s 198AB(1) of *Migration Act 1958* (Cth) by reason of *Namah Decision* – Whether taking plaintiff to Papua New Guinea beyond power under s 198AD by reason of *Namah Decision* – Whether entry into re-settlement arrangements beyond power conferred by Constitution s 61 – Whether authority of Commonwealth to undertake conduct in respect of regional processing arrangements in Papua New Guinea conferred by s 198AHA dependent on those arrangements being lawful under law of Papua New Guinea.



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## 5: SPECIAL LEAVE GRANTED

The following cases have been granted special leave to appeal to the High Court of Australia.

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### Bankruptcy

*Ramsay Health Care Australia Pty Limited v Compton*

**S53/2017:** [\[2017\] HCATrans 55](#)

**Date heard:** 10 March 2017 – *Special leave granted.*

**Catchwords:**

Bankruptcy – *Bankruptcy Act* 1966 (Cth) s 52 – Application to “go behind” judgment debt – Principle of finality – Whether Full Federal Court applied wrong test for “going behind” judgment – Whether court may go behind judgment in any circumstance where debtor adduces evidence which shows “substantial reason to believe” debt not owed.

**Appealed from FCA (FC):** [\[2016\] FCAFC 106](#)

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### Compensation

*Transport Accident Commission v Katanas*

**M160/2016:** [\[2016\] HCATrans 286](#)

**Date heard:** 18 November 2016 – *Special leave granted.*

**Catchwords:**

Compensation – Transport accident – *Transport Accident Act* 1986 (Vic) – Meaning of “serious injury” – Test for establishing whether an injury is a “serious injury” within meaning of s 93 of the *Transport Accident Act* 1986 (Vic) – Application of *Humphries v Poljak* [1992] 2 VR 129 – Whether Court of Appeal applied correct test.

**Appealed from VSC (CA):** [\[2016\] VSCA 140](#); (2016) 76 MVR 161

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## Criminal Law

*Craig v The Queen*

**B64/2016:** [\[2017\] HCATrans 73](#)

**Date heard:** 7 April 2017 – *Special leave granted.*

**Catchwords:**

Criminal law – Murder – *Criminal Code* 1899 (Qld) s 668E – Miscarriage of justice – Where appellant advised by trial counsel that if he gave evidence at trial, he would likely be cross-examined on prior convictions, including manslaughter conviction – Where appellant did not give evidence – Where proposed evidence would have been relevant to defence of provocation and would have raised self-defence – Where Court of Appeal held it was not likely that appellant would have been cross-examined on criminal history – Whether Court of Appeal erred in finding erroneous advice did not result in miscarriage of justice – Whether “alternative rational basis” for not giving evidence test appropriate where counsel gave erroneous advice – Whether denial of opportunity to make informed decision as to whether to give evidence amounts to “such a serious breach of the presuppositions of the trial” that the proviso cannot apply.

**Appealed from QSC (CA):** [\[2016\] QCA 166](#)

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*Hamra v The Queen*

**A6/2017:** [\[2017\] HCATrans 77](#)

**Date heard:** 7 April 2017 – *Special leave granted on limited grounds.*

**Catchwords:**

Criminal law – Persistent sexual exploitation of child under *Criminal Law Consolidation Act* 1935 (SA) s 50 – Where trial judge held no case to answer because allegations of generalised nature such that it was not possible to identify two or more proved sexual offences within meaning of s 50 – Where Court of Criminal Appeal quashed acquittal and remitted matter for retrial – Whether s 50 requires proof of commission of two or more prescribed sexual offences on particular occasions – Whether Court of Criminal Appeal failed to address appellant’s submission that respondent’s appeal should not be granted having regard to considerations relating to double jeopardy.

**Appealed from SASC (CA):** [\[2016\] SASCF 130](#); (2016) 126 SASR 374

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*Commissioner of the Australian Federal Police v Hart & Ors; Commonwealth of Australia v Yak 3 Investments Pty Ltd as Trustee for Yak 3 Discretionary Trust & Ors; Commonwealth of Australia & Anor v Flying Fighters Pty Ltd & Ors*

**B56/2016; B57/2016; B69/2016:** [\[2017\] HCATrans 69](#)

**Date determined:** 6 April 2017 – *Special leave granted.*

**Catchwords:**

Criminal law – Proceeds of crime – *Proceeds of Crime Act 2002* (Cth) – Where Commonwealth obtained restraining order under s 17 of the Act over property under first respondent’s effective control – Where first respondent subsequently found guilty of nine offences of defrauding the Commonwealth – Where property forfeited to Commonwealth under s 92 – Where Commonwealth granted pecuniary penalty order (PPO) against first respondent under s 116 – Where Commonwealth Director of Public Prosecutions sought declaration under s 141 that forfeited property available to satisfy PPO – Where primary judge dismissed application under s 141 on discretionary grounds – Where majority of Court of Appeal dismissed appeal on basis that s 141 did not apply to property the subject of a restraining order under s 17 – Whether majority of Court of Appeal erred in holding that s 141 does not apply to property subject to restraining orders under s 17 – Whether majority of Court of Appeal erred in construing date of effective control under s 141(1)(c) as date on which application is determined notwithstanding that property was subject of restraining orders under s 17 – Whether primary judge erred in exercising discretion to refuse to make order under s 141.

**Appealed from QSC (CA):** [\[2016\] QCA 215](#); (2016) 336 ALR 492 and [\[2016\] QCA 284](#)

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*Koani v The Queen*

**B74/2016:** [\[2017\] HCATrans 70](#)

**Date determined:** 6 April 2017 – *Special leave granted.*

**Catchwords:**

Criminal law – Murder – Criminal negligence – *Criminal Code* 1899 (Qld) ss 289 and 23(1)(a) – Where appellant convicted of murder of de facto partner – Where there was evidence that would allow jury to conclude it was reasonably possible that appellant intended only to frighten deceased – Where trial judge directed jury that, if not satisfied discharge of gun resulted from willed act of appellant, jury could still convict for murder if discharge was consequence of omission to perform duty under s 289 to use reasonable care in his control of shotgun and at time of discharge appellant intended to kill victim or cause grievous bodily harm – Whether criminal negligence in breach of s 289 can found a conviction for murder.

**Appealed from QSC (CA):** [\[2016\] QCA 289](#)

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*The Queen v Dookheea*

**M159/2016:** [\[2016\] HCATrans 284](#)

**Date heard:** 18 November 2016 – *Special leave granted.*

**Catchwords:**

Criminal law – Jury directions – Where respondent was convicted of murder – Where trial judge explained to jury “beyond reasonable doubt” – Where Court of Appeal allowed appeal and ordered re-trial – Whether Court of Appeal erred in finding trial judge impermissibly explained meaning of “beyond reasonable doubt” – Whether direction which includes instruction that prosecution does not have to prove case beyond doubt but beyond reasonable doubt constitutes misdirection – Whether substantial miscarriage of justice.

**Appealed from VSC (CA):** [\[2016\] VSCA 67](#)

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*Director of Public Prosecutions v Dalgliesh (A Pseudonym)*

**M1/2017:** [\[2016\] HCATrans 312](#)

**Date heard:** 16 December 2016 – *Special leave granted.*

**Catchwords:**

Criminal law – Sentencing – Where respondent convicted on several counts of incest and sexual penetration of a child under 16 – Where offending against daughters of de facto partner – Where 13-year-old victim fell pregnant – Where pregnancy subsequently

terminated - Where total effective sentence 5y 6m - Where sentence 3y 6m on charge involving pregnancy - Whether sentence manifestly inadequate on current sentencing principles - Whether s 5(2)(b) *Sentencing Act* 1991 (Vic) alters common law principle of "instinctive synthesis" in sentencing.

**Appealed from VSC (CA):** [\[2016\] VSCA 148](#)

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*GAX v The Queen*

**B72/2016:** [\[2016\] HCATrans 304](#)

**Date heard:** 16 December 2016 - *Special leave granted.*

**Catchwords:**

Criminal law - Unreasonable verdict - Where appellant was convicted of one count of aggravated indecent dealing with child under age of 16 years who was his lineal descendant - Where complainant gave evidence that the appellant, her father, lay in bed with her and that his fingers were down near where her underwear was supposed to be - Where complainant's mother and sister gave evidence of finding appellant in bed with complainant - Where there were inconsistencies between accounts of complainant, mother and sister - Where majority of the Court of Appeal dismissed appeal - Whether majority failed to make independent assessment of the sufficiency and quality of the evidence in determining reasonableness of verdict.

**Appealed from QSC (CA):** [\[2016\] QCA 189](#)

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*Chiro v The Queen*

**A9/2017:** [\[2017\] HCATrans 20](#)

**Date heard:** 10 February 2017 - *Special leave granted on limited grounds.*

**Catchwords:**

Criminal law - Sentencing - Where appellant convicted by jury of "persistent sexual exploitation of a child" pursuant to *Criminal Law Consolidation Act* 1935 (SA) s 50 - Where complainant gave evidence of sexual exploitation that ranged in seriousness - Where trial judge directed jury they may convict if unanimously satisfied that appellant kissed complainant in circumstances amounting to indecent assault on two occasions - Whether Court of Criminal

Appeal erred in failing to hold trial judge erred in failing to ask jury which sexual offences subject of unanimous guilty verdict for purposes of sentencing – Whether in absence of such answer it was open to sentencing jury to sentence on basis that appellant guilty of all alleged sexual offending.

**Appealed from SASC (CCA):** [\[2015\] SASCF 142](#); (2015) 123 SASR 583

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*Van Beelen v The Queen*

**A8/2017:** [\[2017\] HCATrans 19](#)

**Date heard:** 10 February 2017 – *Special leave granted on limited grounds.*

**Catchwords:**

Criminal law – *Criminal Law Consolidation Act 1935 (SA) s 353A* – Second or subsequent appeal where Court satisfied fresh and compelling evidence that should in interests of justice be considered – Where appellant seeks to appeal against conviction of murder on basis that new evidence shows expert evidence as to time of victim’s death flawed – Whether “fresh” and “compelling” evidence – Whether majority erred in holding further attack on expert evidence precluded because expert evidence contested at trial – Whether evidence could have been adduced at original trial – Whether majority erred in finding principle of finality relevant to s 353A appeal – Whether evidence is “substantial” – Whether in the “interests of justice” to allow appeal.

**Appealed from SASC (CCA):** [\[2016\] SASCF 71](#); (2016) 125 SASR 253

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*The Queen v Holliday*

**C3/2017:** [\[2017\] HCATrans 21](#)

**Date heard:** 10 February 2017 – *Special leave granted.*

**Catchwords:**

Criminal law – Where respondent alleged to have incited the procurement of another person to commit the offence of kidnapping – Whether offence of incitement under *Criminal Code 2002 (ACT) s 47* can be committed by inciting another person to procure a third person to commit an offence – Whether offence of incitement complete at the point of the urging – Whether *Criminal Code 2002*

(ACT) ss 45(2)(a) and 45(3) constitute a "limitation or qualifying provision" for purposes of s 47(5) such that offence of incitement not complete until offence of kidnapping committed.

**Appealed from ACTSC (CA):** [\[2016\] ACTCA 42](#); (2016) 312 FLR 77

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## Family Law

*Thorne v Kennedy*

**B14/2017:** [\[2017\] HCATrans 54](#)

**Date heard:** 10 March 2017 – *Special leave granted on limited grounds.*

**Catchwords:**

Family law – *Family Law Act* 1975 (Cth) ss 90K, 90KA – Where parties signed financial agreements prior to and shortly after wedding – Where parties subsequently separated – Where trial judge found wife signed agreements under duress – Where Full Court declared second financial agreement binding – Whether financial agreements should be set aside on grounds of duress, undue influence or unconscionable conduct – Whether Full Court erred in finding trial judge failed to provide adequate reasons.

**Appealed from FamFC (FC):** [\[2016\] FamCAFC 189](#)

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## Industrial Law

*Aldi Foods Pty Limited v Shop, Distributive & Allied Employees Association & Anor*

**M33/2017:** [\[2017\] HCATrans 48](#)

**Date determined:** 8 March 2017 – *Special leave granted.*

**Catchwords:**

Industrial law – Jurisdictional error – *Fair Work Act* 2009 (Cth) – Approval of enterprise agreements – Whether Fair Work Commission fell into jurisdictional error in exercising functions under s 186 – Whether within Fair Work Commission's jurisdiction to determine whether group of employees who voted on single enterprise agreement within coverage of agreement – Whether Fair Work Commission fell into jurisdictional error in determining



agreement satisfied "better off overall test" under s 193 – Unreasonableness in jurisdictional sense.

**Appealed from FCA (FC):** [\[2016\] FCAFC 161](#); (2016) 262 IR 329

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*Esso Australia Pty Ltd v Australian Workers' Union; Australian Workers' Union v Esso Australia Pty Ltd*

**M185/2016; M187/2016:** [\[2016\] HCATrans 311](#)

**Date heard:** 16 December 2016 – *Special leave granted on limited grounds.*

**Catchwords:**

Industrial Law – *Fair Work Act* 2009 (Cth) – Construction of s 413(5) – Where s 413(5) requires that certain persons "must not have contravened any orders that apply to them" for industrial action to be protected – Whether under s 413(5) the contravention must be at the relevant time – Whether under s 413(5) the order must be operative.

Industrial Law – *Fair Work Act* 2009 (Cth) – Construction of ss 343 and 348 – Where sections prevent actions being taken against another person "with intent to coerce" the other person to take or not take industrial action – Whether sections require knowledge that action was unlawful.

**Appealed from FCA (FC):** [\[2016\] FCAFC 72](#); (2016) 258 IR 396

*Hearing vacated (4 May 2017).*

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## Negligence

*State of New South Wales v DC & Anor*

**S35/2017:** [\[2017\] HCATrans 22](#)

**Date heard:** 10 February 2017 – *Special leave granted on limited grounds.*

**Catchwords:**

Negligence – Duty of care – Vicarious liability – Where stepfather sexually abused respondents – Where Department removed

respondents after receiving complaint from one of the respondents – Where stepfather continued to have contact with respondents – *Children Welfare Act 1939 (NSW) s 148B* – Whether appellant owed duty of care to respondents that extended to reporting allegations against stepfather to police – Whether Court of Appeal erred in failing to identify basis upon which appellant liable directly or vicariously in circumstances where no finding that any officer negligent.

**Appealed from NSWSC (CA): [\[2016\] NSWCA 198](#)**

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## 6: CASES NOT PROCEEDING OR VACATED

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### Industrial Law

*Esso Australia Pty Ltd v Australian Workers' Union; Australian Workers' Union v Esso Australia Pty Ltd*

**[M185/2016](#); [M187/2016](#): [\[2016\] HCATrans 311](#)**

**Date heard:** 16 December 2016 – *Special leave granted on limited grounds.*

**Catchwords:**

Industrial Law – *Fair Work Act 2009* (Cth) – Construction of s 413(5) – Where s 413(5) requires that certain persons “must not have contravened any orders that apply to them” for industrial action to be protected – Whether under s 413(5) the contravention must be at the relevant time – Whether under s 413(5) the order must be operative.

Industrial Law – *Fair Work Act 2009* (Cth) – Construction of ss 343 and 348 – Where sections prevent actions being taken against another person “with intent to coerce” the other person to take or not take industrial action – Whether sections require knowledge that action was unlawful.

**Appealed from FCA (FC):** [\[2016\] FCAFC 72](#); (2016) 258 IR 396

*Hearing vacated.*

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# 7: SPECIAL LEAVE REFUSED

## Publication of Reasons: 30 March 2017

| <i>No.</i> | <i>Applicant</i>   | <i>Respondent</i>   | <i>Court appealed from</i>   | <i>Result</i>  |
|------------|--|---|--|--|
| 1.         | Clampett   | QLD Police Services<br>(B4/2017)  | Supreme Court of Queensland<br>(Court of Appeal)<br>[2016] QCA 345                           | Application dismissed<br><a href="#">[2017] HCASL 64</a>               |
| 2.         | Lei & Anor   | Lei & Ors<br>(M17/2017)   | Supreme Court of Victoria<br>[2016] VSC 336  | Application dismissed<br><a href="#">[2017] HCASL 65</a>               |
| 3.         | SZVLO  | Minister for Immigration and<br>Border Protection & Anor<br>(S266/2016) | Federal Court of Australia<br>[2016] FCA 1592  | Application dismissed<br><a href="#">[2017] HCASL 66</a>               |
| 4.         | SZUUI & Anor   | Minister for Immigration and<br>Border Protection & Anor<br>(S268/2016) | Federal Court of Australia<br>[2016] FCA 1595  | Application dismissed<br><a href="#">[2017] HCASL 67</a>               |
| 5.         | Chen & Anor  | State of New South Wales<br>(S5/2017)                                   | Supreme Court of<br>New South Wales<br>(Court of Appeal)<br>[2016] NSWCA 292                 | Application dismissed<br><a href="#">[2017] HCASL 68</a>               |
| 6.         | Griffin  | Council of the Law Society<br>of NSW<br>(S15/2017)                      | Supreme Court of<br>New South Wales<br>(Court of Appeal)<br>[2016] NSWCA 364                 | Application dismissed<br><a href="#">[2017] HCASL 69</a>               |
| 7.         | Eastman  | The Director of Public<br>Prosecutions<br>(C1/2017)                     | Supreme Court of the<br>Australian Capital Territory<br>(Court of Appeal)<br>[2016] ACTCA 65 | Application dismissed<br><a href="#">[2017] HCASL 70</a>               |
| 8.         | MNWA Pty Ltd<br>(formerly known as<br>Mammoth Nominees<br>Pty Ltd) | Deputy Commissioner of<br>Taxation<br>(S289/2016)                       | Full Court of the Federal<br>Court of Australia<br>[2016] FCAFC 154                          | Application dismissed<br>with costs<br><a href="#">[2017] HCASL 71</a> |
| 9.         | Gucce Holdings Pty<br>Ltd  | Deputy Commissioner of<br>Taxation<br>(S290/2016)                       | Full Court of the Federal<br>Court of Australia<br>[2016] FCAFC 154                          | Application dismissed<br>with costs<br><a href="#">[2017] HCASL 72</a> |
| 10.        | Toben  | Nationwide News Pty Ltd<br>& Ors<br>(S279/2016)                         | Supreme Court of<br>New South Wales<br>(Court of Appeal)<br>[2016] NSWCA 296                 | Application dismissed<br>with costs<br><a href="#">[2017] HCASL 73</a> |

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## Publication of Reasons: 5 April 2017

| <i>No.</i> | <i>Applicant</i>                               | <i>Respondent</i>  | <i>Court appealed from</i>  | <i>Result</i>   |
|------------|--|--|---|---|
| 1.         | Rose   | South Australian Housing Trust<br>(A48/2016)                                   | Full Court of the Supreme Court of South Australia<br>[2016] SASCFC 115 | Application dismissed<br><a href="#">[2017] HCASL 74</a>            |
| 2.         | Luck   | University of Southern Queensland<br>(M165/2016)                               | Full Court of the Federal Court of Australia<br>[2016] FCAFC 167        | Application dismissed<br><a href="#">[2017] HCASL 75</a>            |
| 3.         | Mulholland                                     | Funnell<br>(M188/2016)   | Supreme Court of Victoria (Court of Appeal)<br>[2016] VSCA 290          | Application dismissed<br><a href="#">[2017] HCASL 76</a>            |
| 4.         | El Saghir                                      | Minister for Immigration and Border Protection & Anor<br>(S300/2016)           | Federal Court of Australia<br>[2016] FCA 1430                           | Application dismissed<br><a href="#">[2017] HCASL 77</a>            |
| 5.         | SZVCH  | Minister for Immigration and Border Protection & Anor<br>(S302/2016)           | Full Court of the Federal Court of Australia<br>[2016] FCAFC 127        | Application dismissed<br><a href="#">[2017] HCASL 78</a>            |
| 6.         | Clark  | Robards & Ors<br>(S27/2017)  | Supreme Court of New South Wales (Court of Appeal)<br>[2016] NSWCA 187  | Application dismissed<br><a href="#">[2017] HCASL 79</a>            |
| 7.         | Cook   | The Queen<br>(M130/2016)   | Supreme Court of Victoria (Court of Appeal)<br>[2016] VSCA 174          | Application dismissed<br><a href="#">[2017] HCASL 80</a>            |
| 8.         | Brar   | The Queen<br>(M177/2016)   | Supreme Court of Victoria (Court of Appeal)<br>[2016] VSCA 281          | Application dismissed<br><a href="#">[2017] HCASL 81</a>            |
| 9.         | The Attorney-General for the State of Victoria | Glass & Anor<br>(M5/2017)  | Supreme Court of Victoria (Court of Appeal)<br>[2016] VSCA 306          | Application dismissed<br><a href="#">[2017] HCASL 82</a>            |
| 10.        | Pink Lady America LLC                          | Apple and Pear Australia Limited<br>(M176/2016)                                | Supreme Court of Victoria (Court of Appeal)<br>[2016] VSCA 280          | Application dismissed with costs<br><a href="#">[2017] HCASL 83</a> |
| 11.        | Montclare                                      | Metlife Insurance Limited (formerly Citicorp Life Insurance Ltd)<br>(M14/2017) | Supreme Court of Victoria (Court of Appeal)<br>[2016] VSCA 336          | Application dismissed with costs<br><a href="#">[2017] HCASL 84</a> |
| 12.        | Doutch   | Commissioner of Taxation & Anor<br>(P1/2017)                                   | Full Court of the Federal Court of Australia<br>[2016] FCAFC 166        | Application dismissed with costs<br><a href="#">[2017] HCASL 85</a> |
| 13.        | Reckitt Benckiser (Australia) Pty Ltd          | Australian Competition and Consumer Commission<br>(S13/2017)                   | Full Court of the Federal Court of Australia<br>[2016] FCAFC 181        | Application dismissed with costs<br><a href="#">[2017] HCASL 86</a> |

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## Publication of Reasons: 6 April 2017

| <i>No.</i> | <i>Applicant</i>       | <i>Respondent</i>   | <i>Court appealed from</i>   | <i>Result</i>  |
|------------|------------------------|---|--|--|
| 1.         | Vakras & Anor          | Cripps & Anor<br>(M15/2017)   | Supreme Court of Victoria<br>(Court of Appeal)<br>[2015] VSCA 234            | Application dismissed<br><a href="#">[2017] HCASL 87</a>               |
| 2.         | Vakras & Anor          | Cripps & Anor<br>(M16/2017)   | Supreme Court of Victoria<br>(Court of Appeal)<br>[2015] VSCA 234            | Application dismissed<br><a href="#">[2017] HCASL 88</a>               |
| 3.         | CHZ15 & Anor           | Minister for Immigration and<br>Border Protection & Anor<br>(S276/2016) | Federal Court of Australia<br>[2016] FCA 1593                                | Application dismissed<br><a href="#">[2017] HCASL 89</a>               |
| 4.         | Singh                  | Minister for Immigration and<br>Border Protection & Anor<br>(S23/2017)  | Federal Court of Australia<br>[2016] FCA 1529                                | Application dismissed<br><a href="#">[2017] HCASL 90</a>               |
| 5.         | Brown                  | Commonwealth Director of<br>Public Prosecution & Anor<br>(S24/2017)     | Supreme Court of<br>New South Wales<br>(Court of Appeal)<br>[2016] NSWCA 333 | Application dismissed<br><a href="#">[2017] HCASL 91</a>               |
| 6.         | SZUIJ                  | Minister for Immigration and<br>Border Protection & Anor<br>(S28/2017)  | Federal Court of Australia<br>[2016] FCA 1574                                | Application dismissed<br><a href="#">[2017] HCASL 92</a>               |
| 7.         | McDermid               | Repatriation Commission<br>(B2/2017)                                    | Full Court of the<br>Federal Court of Australia<br>[2016] FCAFC 179          | Application dismissed<br><a href="#">[2017] HCASL 93</a>               |
| 8.         | The Queen              | Albert Mejia (A Pseudonym)<br>(M189/2016)                               | Supreme Court of Victoria<br>(Court of Appeal)<br>[2016] VSCA 296            | Application dismissed<br><a href="#">[2017] HCASL 94</a>               |
| 9.         | Colonial Range Pty Ltd | CES-Queen (Vic) Pty Ltd<br>& Anor<br>(M10/2017)                         | Supreme Court of Victoria<br>(Court of Appeal)<br>[2016] VSCA 328            | Application dismissed<br>with costs<br><a href="#">[2017] HCASL 95</a> |

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## 7 April 2017: Brisbane

| <i>No.</i> | <i>Applicant</i>                                | <i>Respondent</i>          | <i>Court appealed from</i>  | <i>Results</i>  |
|------------|---|----------------------------|---|---|
| 1.         | Coast and Country Association of Queensland Inc | Smith & Ors (B65/2016)     | Supreme Court of Queensland (Court of Appeal) [2016] QCA 242        | Special leave refused with costs (2nd Respondent)<br><a href="#">[2017] HCATrans 74</a> |
| 2.         | Handlen   | The Queen (B67/2016)       | Supreme Court of Queensland (Court of Appeal) [2015] QCA 292        | Special leave refused<br><a href="#">[2017] HCATrans 72</a>                             |
| 3.         | Sheahan & Ors                                   | Crossman & Ors (S229/2016) | Supreme Court of New South Wales (Court of Appeal) [2016] NSWCA 200 | Special leave refused with costs<br><a href="#">[2017] HCATrans 75</a>                  |

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## 7 April 2017: Melbourne

| <i>No.</i> | <i>Applicant</i>                               | <i>Respondent</i>                            | <i>Court appealed from</i>                                    | <i>Results</i>   |
|------------|--|--|---|--|
| 1.         | Wood   | The Retirement Benefits Fund Board (H4/2016) | Full Court of the Supreme Court of Tasmania [2016] TASFC 9    | Special leave refused with costs<br><a href="#">[2017] HCATrans 80</a> |
| 2.         | P-Value Pty Ltd                                | Wellara Holdings Pty Ltd & Ors (M140/2016)   | Supreme Court of Victoria (Court of Appeal) [2016] VSCA 223   | Special leave refused with costs<br><a href="#">[2017] HCATrans 78</a> |
| 3.         | P-Value Pty Ltd                                | Nucara & Ors (M141/2016)                     | Supreme Court of Victoria (Court of Appeal) [2016] VSCA 223   | Special leave refused with costs<br><a href="#">[2017] HCATrans 78</a> |
| 4.         | Minister for Immigration and Border Protection | Singh & Anor (M151/2016)                     | Full Court of the Federal Court of Australia [2016] FCAFC 141 | Special leave refused with costs<br><a href="#">[2017] HCATrans 79</a> |

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